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June 16, 1997

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VIA HAND DELIVERY

Federal Communications Commission  
Office of Secretary

William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

CC 96-128

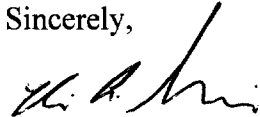
Re: Policies and Rules Concerning Operator Service Access and Pay  
Telephone Compensation, Docket No. 91-35

Dear Mr. Caton:

On June 2, 1997, Oncor Communications filed a Petition for Waiver in the above-referenced docket. We were subsequently informed by the Commission that it prefers such filing to be styled as Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128. It would be appreciated, therefore, if Oncor's Petition were placed in that docket.

Thank you for your attention to this matter.

Sincerely,



Victoria A. Schlesinger

VAS/jas

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## VIA HAND DELIVERY

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

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Office of Secretary

CC 96-128

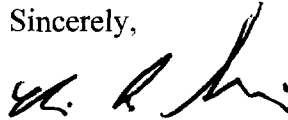
Re: In the Matter of Policies and Rules Concerning Operator Service  
Access and Pay Telephone Compensation, CC Docket No. 91-35

Dear Mr. Caton:

On behalf of Oncor Communications, Inc., we hereby submit for filing an original and four (4) copies of Oncor Communications, Inc.'s Petition for Waiver in the above-referenced matter.

Please acknowledge receipt on the supplemental copy provided and remit same to the bearer. Please refer all questions and correspondence regarding this filing to the undersigned.

Sincerely,



Victoria A. Schlesinger

VS/vas  
Enclosures

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JUN - 2 1997

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of )

)

Policies and Rules Concerning )

CC Docket No. 91-35

Operator Service Access and )

Pay Telephone Compensation )

**PETITION FOR WAIVER****Introduction**

Currently, the Commission prescribes compensation for owners of competitive public payphones when calls are routed to providers of operator services that are other than the presubscribed operator service provider.<sup>1</sup> Section 64.1301 of the Commission's Rules requires that such compensation be paid by operator service providers with revenues in excess of \$100 million.<sup>2</sup> Pursuant to Section 1.3 of the Commission's Rules, Oncor Communications, Inc. ("Oncor") respectfully requests a waiver of Section 64.1301 of the Commission's Rules to excuse Oncor from its interim obligations to compensate private payphone owners for interstate calls dialed around the presubscribed operator service provider, or in the alternative, to permit Oncor to compensate competitive payphone owners on a per-call basis between the period of November 6, 1996 and October 1, 1997.<sup>3</sup>

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<sup>1</sup>47 C.F.R. § 64.1301 (1996).

<sup>2</sup>Id.

<sup>3</sup>The period between November 6, 1996 and October 1, 1997 is that period during which the Commission prescribed an interim compensation mechanism to compensate pay telephone owners until per-call compensation can be implemented in accordance with the Telecommunications Act of 1996. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, et al., Report and Order, FCC 96-388, released Sept. 20, 1996 (hereinafter "Pay Telephone Reclassification Order").

### I. Oncor Does Not Have Annual Toll Revenues in Excess of \$100 Million

On September 20, 1996, the Commission adopted a Report and Order in the above-referenced docket establishing an interim flat rate compensation mechanism.<sup>4</sup> The interim compensation mechanism was established to compensate payphone service providers until the new rules requiring per-call compensation take effect on October 7, 1997. In that Report and Order, the Commission determined that all interexchange carriers ("IXCs") with annual toll revenues in excess of \$100 million, as reported in the FCC staff report entitled "Long Distance Market Shares," would be responsible for compensating private payphone owners by an amount relative to their share of toll revenues.<sup>5</sup> The Commission stated that, "[f]or reasons of administrative convenience of the parties, we conclude that we should model the interim mechanism adopted in this Report and Order on that set forth in the access code call compensation proceeding."<sup>6</sup>

Although Oncor did report annual toll revenues in excess of \$100 million in 1995,<sup>7</sup> it did not report annual toll revenues in excess of \$100 million in 1996.<sup>8</sup> Consequently, for the calendar year 1996, Oncor's annual toll revenues fell below the revenue threshold established by the Commission triggering interim compensation obligations. However, both Appendix F to the Report and Order and the most recent Long Distance Market Shares report, while titled "Long Distance Market Shares: Fourth Quarter, 1996,"<sup>9</sup> contain annual revenue data from 1995, rather

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<sup>4</sup>Id., ¶ 119.

<sup>5</sup>See id.

<sup>6</sup>Id.

<sup>7</sup>See Pay Telephone Reclassification Order, Appendix F.

<sup>8</sup>See attached Affidavit of Marvin L. Mason.

<sup>9</sup>The most recent Long Distance Market Shares report was released March 28, 1997.

than 1996. Thus, the Long Distance Market Shares report does not contain updated annual revenue data.

Because Oncor does not currently meet the \$100 million revenue threshold established by the Commission, and has not met that threshold in more than a year, Oncor respectfully requests that it be excused from any compensation obligations under Section 64.1301 of the Commission's Rules between the period of November 6, 1996 and October 1, 1997.

## II. Per-Call Compensation Request

Should the Commission decide not to excuse Oncor from its payment obligations pursuant to Section 64.1301 of the Commission's Rules, Oncor alternatively petitions for a waiver allowing it to pay dial-around compensation for interstate calls to competitive payphone owners in equal access areas at a rate of \$.25 cents per call. In this Petition, Oncor is seeking the same relief the Commission granted to Oncor in a Memorandum Opinion and Order released on March 7, 1997.<sup>10</sup> The same relief was also granted to AT&T in a Memorandum Opinion and Order released on December 29, 1994, and to Sprint in a Memorandum Opinion and Order released on May 19, 1995 in the above-referenced proceeding.

In its Second Report and Order implementing a payphone compensation mechanism, the Commission concluded that such compensation would be based on a per-phone, rather than a per-call basis for interstate, interLATA access code calls.<sup>11</sup> This decision was based on the Commission's understanding that many private payphone owners and carriers lacked the tracking

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<sup>10</sup>The Memorandum Opinion and Order authorized Oncor to pay, for the period of April 1, 1996 through November 5, 1996, compensation to competitive payphone providers at the rate of \$.25 per interstate access code call. Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Memorandum Opinion and Order, CC Docket No. 91-35, released March 7, 1997.

<sup>11</sup>Id. ¶ 13.

capability necessary for a per-call mechanism.<sup>12</sup> The Commission did state in that proceeding, however, that a per-call mechanism would be preferable because it would encourage private payphone owners to place payphones at locations generating the most payphone traffic.<sup>13</sup> On February 8, 1996, Congress affirmed the industry's preference for a per-call compensation mechanism in Section 276 of the Telecommunications Act of 1996. On September 20, 1996, the Commission released a Report and Order establishing a new per-call compensation plan pursuant to Section 276.<sup>14</sup>

Much like AT&T and Sprint, Oncor is now in a position to track and compensate individual 10XXX and 1-800 access code calls from competitive payphones in equal access areas. As Sprint Communications Company stated in its Petition for Waiver submitted in the above-referenced docket, the waiver granted to AT&T on December 29, 1994<sup>15</sup> would be generally applicable to any carrier having the capability to track and compensate on a per-call basis.<sup>16</sup> Accordingly, Oncor requests that the Commission allow Oncor to fulfill its payment obligations via the method preferred by the Commission and IXC's alike.

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<sup>12</sup>Id. ¶ 8.

<sup>13</sup>Id. ¶ 13.

<sup>14</sup>See generally Pay Telephone Reclassification Order, ¶¶ 20-126.

<sup>15</sup>In the Matter of Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Memorandum Opinion and Order, DA 94-1612, released December 29, 1994.

<sup>16</sup>In the Matter of Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Sprint Petition for Waiver, FCC 91-35, filed February 27, 1996, at 2.

Conclusion

Oncor respectfully requests the Commission to grant its Petition for Waiver by excusing Oncor from its payment obligations or, in the alternative, permitting Oncor to compensate private payphone owners in equal access areas at a rate of \$.25 per call.

Respectfully submitted,

**ONCOR COMMUNICATIONS, INC.**

A handwritten signature in dark ink, appearing to read "R. B. Lowe", is written over a horizontal line.

Randall B. Lowe

Victoria A. Schlesinger

Piper & Marbury L.L.P.  
1200 Nineteenth Street, N.W.  
Washington, D.C. 20036  
(202) 861-3900

Its Attorneys

Date: June 2, 1997

AFFIDAVIT

STATE OF TEXAS                   §  
   §  
COUNTY OF DALLAS               §

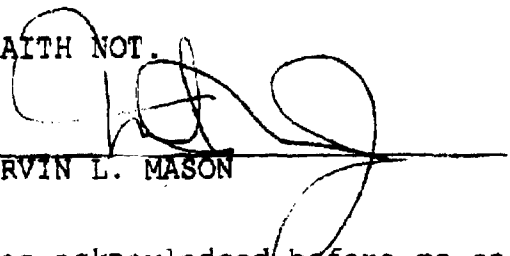
BEFORE ME, the undersigned official, on this day personally appeared Marvin L. Mason, who is personally known to me to be the Chief Financial Officer of Operator Communications, Inc. d/b/a Oncor Communications (the "Company"), and after being first duly sworn according to law, upon his oath deposed and said:

1. My name is Marvin L. Mason. I am over the age of twenty-one (21) years, and am competent to make this Affidavit. I am personally in all respects, qualified to make this Affidavit. The facts as set forth herein are within my personal knowledge, and are true and correct.

2. I am the Chief Financial Officer of Operator Communications, Inc. d/b/a Oncor Communications.

3. The annual toll revenues of the Company for calendar year 1996 were less than \$100,000,000.00.

FURTHER AFFIANT SAITH NOT.

  
MARVIN L. MASON

This instrument was acknowledged before me on the 2nd day of June, 1997, by Marvin L. Mason.

  
Notary Public, Commonwealth of Texas

1837L

